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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,922	08/31/2001	Joseph B. Fuller	29409/01	2250

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EXAMINER

TORRES, ALICIA M

ART UNIT PAPER NUMBER

3671

DATE MAILED: 03/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/944,922

Applicant(s)

FULLER, JOSEPH B.

Examiner

Alicia M Torres

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meltzer in view of Dunn et al, hereafter Dunn.

Meltzer discloses a trimmer (T) comprising a base (14), with recesses (21), as per claim 2, an electric motor (10), as per claim 5, attached to the base (14) wherein the motor (10) is attached to and rotates a cutting element (22), a handle (18), and a universal joint (17, see column 2, lines 25-29), connecting the handle (18) to the base (14).

However, Meltzer fails to disclose that the cutting element comprise at least one line, two unidirectional wheels, and a multidirectional wheel attached to the base.

Dunn discloses a trimmer wherein the cutting element is line cutter (see column 4, lines 32-37), with two unidirectional wheels (19) and one multidirectional wheel (7) attached to the base.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the wheel structure of Dunn on the trimmer of Meltzer in order to more easily maneuver the trimmer.

Art Unit: 3671

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meltzer and Dunn as applied to claim 1 above, and further in view of Savell, as cited by applicant.

The device is disclosed as applied to claim 1 above. However, the combination of Meltzer and Dunn fails to disclose a lower grip attached to the handle. Savell discloses a lower grip attached to the handle (26). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the lower grip of Savell on the trimmer of Meltzer and Dunn in order to hand carry the trimmer.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meltzer and Dunn as applied to claim 1 above, and further in view of Kalmar.

The device is disclosed as applied to claim 1 above. However, the combination fails to disclose that the universal joint comprise a handle couple attached to the handle, a link rotatably attached to the handle couple, and a bracket rotatably attached to the link and attached to the base. Kalmar discloses a universal joint (43) comprised of a handle couple (42) attached to the handle, a link rotatably attached to the handle couple, and a bracket rotatably attached to the link and attached to the base (see figure 3).

5. Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn in view of Meltzer and Braun & Deck.

Dunn discloses a trimmer comprising a base comprising a front and rear, a rotating line cutter element driven by an electric motor (M), as per claim 10, attached to the base (see column 4, lines 32-37), two unidirectional wheels (19) attached to the front of the base, a multidirectional wheel (7) attached to the rear of the base, and a handle (H) attached to the rear of the base. However, Dunn fails to disclose that the handle be attached to the rear of the base by means of a

Art Unit: 3671

dual pivoting joint. Meltzer discloses a similar trimmer wherein the handle (18) is connected to the base (14) by a universal joint (17). Braun & Deck disclose a mower wherein the handle (L) is attached to the rear of the base (E) by a dual pivot joint (H) that allows for universal joint movement by a first pivot and a second pivot that are perpendicular and not parallel, as per claims 7-9. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the dual pivot joint of Braun & Deck on the trimmer of Dunn since the examiner takes Official Notice of the equivalence of a dual pivot joint and a universal joint and the selection of any of these known equivalents to connect a handle to a trimmer base would be within the level of ordinary skill in the art.

6. Claim 11-17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meltzer in view of Dunn and Braun & Deck.

In regards to claims 11 and 14-17, Meltzer discloses a trimmer comprising a handle attachment element (17) attached to the trimmer device wherein the handle attachment element is a universal joint (see column 2, lines 25-29), and a handle (18) is attached to the handle attachment element (17). However, Meltzer fails to disclose that the trimmer comprise a rotating line cutting device and that the handle attachment element comprise a first pivot and a second pivot wherein the first pivot point and the second pivot are capable of pivoting simultaneously. Dunn discloses a trimmer wherein the any type of cutting element may be employed (see column 4, lines 32-37), such as a line rotated by the motor (M) attached to the base, as per claim 14. Braun & Deck disclose a mower wherein the handle (L) is attached to the rear of the base (E) by a dual pivot joint (H) that serves to provide a universal joint movement, with a first pivot and a second pivot wherein the first pivot point and the second pivot are

Art Unit: 3671

capable of pivoting simultaneously (see figures 3 and 4, and column 1, lines 44-50), and are perpendicular and not parallel, as per claims 16 and 17. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the dual pivot connection of Braun & Deck on the trimmer of Meltzer since the examiner takes Official Notice of the equivalence of a dual pivot joint and a universal joint and the selection of any of these known equivalents to connect a handle to a trimmer base would be within the level of ordinary skill in the art.

7. In regards to claims 12 and 13, the device is disclosed as applied to claim 11 above. However, the combination of Meltzer and Braun & Deck fails to disclose that the trimmer comprise two unidirectional wheels and one multidirectional wheel. Dunn discloses a trimmer with two unidirectional wheels (19) and one multidirectional wheel (7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the wheel structure of Dunn on the trimmer of Meltzer and Braun & Deck in order to more easily maneuver the trimmer.

Response to Arguments

8. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the lower grip must be combined with a universal joint as argued for claim 3, and that the present invention must be pushed as argued for claims 6-10 and 11-17) are not recited in the rejected claims.

Although the claims are interpreted in light of the specification, limitations from the specification

Art Unit: 3671

are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

9. In regards to claims 1, 2, and 5, applicant argues that a ball and socket joint and a universal joint are not art recognized equivalents. In the present case, the invention requires a certain degree of rotation for the handle around the base in order to increase maneuverability. A ball and socket joint would provide the same degree of rotation and there is nothing to say that steering maneuverability would be decreased with the use of a ball and socket joint. Applicant's arguments have been fully considered but they are not persuasive. It is concluded that a ball and socket joint is an art recognized equivalent to a universal joint, as it is capable of providing the same limitations necessary for the present invention.

10. In response to the argument for claim 4 that the handle couple of Kalmar is different, applicant is reminded that the claims will be read in their broadest interpretation. The universal joint according to claim 4 comprises a handle couple attached to the handle, a link rotatably attached to the handle couple, and a bracket attached to the link and to the base. Claim 4 does not require that the handle couple be separate from the handle and a link is nothing more than a connecting element. Therefore, the tapered part of the handle is considered a handle coupling and the ball (shown at 43, figure 3) acts as a link between the handle couple and base. Applicant's arguments have been fully considered but they are not persuasive.

11. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the

Art Unit: 3671

time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

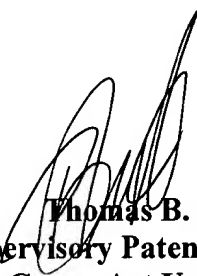
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Art Unit: 3671

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-305-3597.



Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
March 20, 2003